

**DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL**

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**FOR IMMEDIATE RELEASE**

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## **ABC BAN ON LEWD CONDUCT UPHELD U.S. SUPREME COURT DENIES HEARING**

**Sacramento** – The U.S. Supreme Court has denied a petition by a California liquor licensee to overturn a decision by the California Department of Alcoholic Beverage Control (ABC) to take administrative action against a nightclub for lewd activities.

ABC Acting Director Jerry R. Jolly said the denial by the U.S. Supreme Court confirms that the Department's regulation does not infringe upon constitutionally protected rights of free speech and expression.

Said Jolly, "As the department contended all along, the restrictions placed upon erotic entertainment and sexually explicit conduct in businesses licensed to sell alcoholic beverages are reasonably directed to the effects such activities may have on people who are consuming alcohol and to the protection of the general public".

The decision involved the Angels Sports Bar in the Riverside County community of Corona, where dancers were observed touching and fondling their bare breasts during dances. ABC filed an accusation against the bar seeking a 30 day liquor license suspension, which was appealed by the bar.

The Alcoholic Beverage Control Appeals Board overturned the Department's decision, claiming the regulation prohibiting the alleged conduct violated the dancer's freedom of expression.

The California Fourth District Court of Appeal overturned the Appeals Board saying it had erred in underestimating the state's power to impose regulations directed at undesirable "secondary effects" of certain types of entertainment and the establishments offering them.

The nightclub then appealed that decision to the California Supreme Court, and then the U.S. Supreme Court, both of which denied hearings on the case, thereby upholding the Court of Appeal decision.

In its decision, the Court of Appeal said, "The Department is not attempting to regulate or prohibit nude or erotic dancing in general. It is only attempting to reduce the problems caused by such dancing in front of customers whose inhibitions and ability to control their impulses

have been weakened by the consumption of liquor. If performers at [Angels Sports Bar] feel constricted by Rule 143.3, they are free to exhibit their wares (and whatever else they wish) at clubs which do not serve alcoholic beverages.”

The Appeals Court went on to rule that the regulation “...is properly applied to regulate the ‘explosive’ combination of liquor and sex.”

Still to be determined is the Department’s proposed 30-day suspension of the liquor license. The Appeals Court had remanded the matter back to the Appeals Board for reconsideration.

ABC is a department of the Business, Transportation and Housing Agency, which is under the direction of Secretary Maria Contreras-Sweet, a member of the Governor’s cabinet.